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Rights of internally displaced persons

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, submitted in accordance with General Assembly resolution 72/182 and Human Rights Council resolution 32/11.

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Report of the Special Rapporteur on the human rights of internally displaced persons

Summary

The present report outlines the main activities undertaken by the Special Rapporteur on the human rights of internally displaced persons since her previous report to the General Assembly.

In the thematic section, the Special Rapporteur addresses the increasing need to identify and examine ways in which transitional justice measures and practitioners can better perform their work in the context of internal displacement, engage with internally displaced persons and respond to their justice claims. The Special Rapporteur will also provide recommendations for addressing the challenges in including internally displaced persons in transitional justice processes and for practitioners, researchers and policymakers from both fields to collaborate with each other. The report is therefore intended to serve as a stocktaking/guidance tool with the objective of operationalizing existing frameworks and guidelines and providing technical assistance for their implementation by all stakeholders to ensure that transitional justice measures are an inherent part of durable solutions for internally displaced persons.

I. Introduction

1. The present report is submitted to the General Assembly by the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, pursuant to General Assembly resolution 72/182.

2. Section II provides an overview of the main activities undertaken by the Special Rapporteur in the period from August 2017 to July 2018. Section III focuses on transitional justice in the context of internal displacement and addresses measures and positive practices to ensure the inclusion of internally displaced persons in transitional justice processes as part of durable solutions. Section IV provides conclusions and key recommendations.

II. Mandate and activities of the Special Rapporteur

A. Mandate

3. The Human Rights Council, in its resolution 32/11, mandated the Special Rapporteur to address the complex problem of internal displacement, in particular by engaging in coordinated international advocacy and action for improving the protection of and respect for the human rights of internally displaced persons; continuing and enhancing dialogue with Governments, intergovernmental, regional and non-governmental organizations and other relevant actors; working towards strengthening the international response to internal displacement; and mainstreaming the human rights of internally displaced persons into all relevant parts of the United Nations system.

B. Activities of the Special Rapporteur

4. In June 2018, the Special Rapporteur presented her annual report (A/HRC/38/39) to the Human Rights Council. The report focused on the twentieth anniversary of the Guiding Principles on Internal Displacement in 2018. Addenda to the annual report included the country visit reports of the Special Rapporteur to El Salvador (A/HRC/38/39/Add.1), Libya (A/HRC/38/39/Add.2) and Niger (A/HRC/38/39/Add.3).

5. The Special Rapporteur organized a stakeholder meeting in Geneva on 25 September 2017 using the opportunity provided by the twentieth anniversary of the Guiding Principles in 2018 to forge a stronger commitment and promote more strategic and coordinated action among all stakeholders. That meeting, together with other consultations with partners at the national, regional and international levels, resulted in an agreement to develop a plan of action for advancing prevention, protection and solutions for internally displaced persons.[1]

6. The Special Rapporteur continued to support the mainstreaming of the human rights of internally displaced persons within the United Nations system and the wider humanitarian community. Her participation in the Inter-Agency Standing Committee at the principals' level has proved essential in that regard, as it helps to ensure and enhance collaborative approaches and strong links with key United Nations agencies, other international organizations and civil society. The Special Rapporteur participated in the Principals' meetings of the Committee in October 2017 and May 2018, and participated remotely in the meeting of the Committee Working Group and Emergency Directors Group in April 2018.

[1] See www.ohchr.org/EN/Issues/IDPersons/Pages/MultiStakeholderPlanOfAction.aspx.

7. The Special Rapporteur co-hosted, with the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Institute of Humanitarian Law, the thirteenth and fourteenth courses on the law of internal displacement, held in October 2017 and June 2018 respectively, in San Remo, Italy. The course continues to be an excellent opportunity to bring together government authorities involved in the protection of internally displaced persons, and the Special Rapporteur intends to continue it as the mandate holder's flagship course.

8. The Special Rapporteur organized jointly, with the Swiss Peace Foundation and the University of Basel, an expert workshop on transitional justice and internal displacement in December 2017, which brought together scholars and practitioners working on internal displacement and transitional justice. Participants discussed the current state of knowledge and identified lessons learned, best practices and recommendations for improving policies and practices in this field. It served as a platform for dialogue between the expert participants and the Special Rapporteur on her thematic priority of inclusion of internally displaced persons in transitional justice processes. The findings from the workshop have directly informed the present report.

9. Aside from participating in several forums and conferences organized by and focused on the role of national human rights institutions,[2] the Special Rapporteur further strengthened her engagement with such institutions by attending the annual conference of the Global Alliance of National Human Rights Institutions in February 2018, at which she organized a side event examining the work of national human rights institutions on the Guiding Principles and proposing how the scope of that work could be expanded. In addition, a consultative workshop was co-convened with UNHCR, the Global Alliance and the Office of the United Nations High Commissioner for Human Rights (OHCHR) on 20 February 2018, to which selected national human rights institutions were invited, to exchange views and ideas on their existing and potential roles in addressing internal displacement. The Special Rapporteur sent a questionnaire to all national human rights institutions, to map their ongoing work on internal displacement and identify good practices and opportunities. That information will inform her annual report to the Human Rights Council in 2019, on the role of national human rights institutions in promoting and protecting the human rights of internally displaced persons.

10. The Rapporteur further continued her engagement with supporting States and other relevant stakeholders, so as to include internally displaced persons in the broader discussions on migration and, in particular, the negotiations on the global compact for safe, orderly and regular migration. She sent out an open letter to permanent missions in Geneva and New York in March 2018 on the inclusion of internally displaced persons in the global compact, in line with the New York Declaration for Refugees and Migrants.[3] The Special Rapporteur was also one of the 19 special procedures co-signatories in the joint letter sent to all Permanent Missions and co-facilitators regarding the second draft of the Global Compact for Safe, Orderly and Regular Migration.

11. The Special Rapporteur has also been an active member of the Expert Group on Refugee and Internally Displaced Persons Statistics, contributing to the technical

[2] In November 2017 and April 2018, respectively, the Special Rapporteur participated in the twenty-second annual meeting of the Asia-Pacific Forum of National Human Rights Institutions, held in Bangkok, and a meeting of the European Network of National Human Rights Institutions, held in Kiev, to discuss the roles of national human rights institutions in the context of their regions, as well as to brainstorm on the commemoration and plan of action for the twentieth anniversary of the Guiding Principles on Internal Displacement.

[3] General Assembly resolution 71/1.

report on internally displaced persons statistics, which was adopted by the Statistical Commission at its forty-ninth session in March 2018.

12. On 16 April 2017, at a meeting in Geneva, the Special Rapporteur launched the Durable Solutions Indicator Library[4] and Analysis Guide,[5] representing significant milestones in addressing the challenge of acquiring the necessary evidence to support durable solutions to internal displacement. The Library and Guide were developed as a result of a multi-stakeholder three-year initiative entitled "Informing responses to support durable solutions for internally displaced persons", led by the Special Rapporteur and coordinated by the Joint Internally Displaced Person Profiling Service.

13. To mark the twentieth anniversary of the Guiding Principles on Internal Displacement, the multi-stakeholder Plan of Action for Advancing Prevention, Protection and Solutions for Internally Displaced Persons 2018–2020,[6] the first ever, was launched during a stakeholder meeting for the twentieth anniversary in Geneva on 17 April 2018, sponsored by Austria, Honduras and Uganda. The Plan of Action was drafted under the leadership of the Special Rapporteur, UNHCR and the Office for the Coordination of Humanitarian Affairs in consultation with various other agencies and partners. The Plan of Action seeks to galvanize a strategic dialogue, concerted action and adequate resources to prevent, respond to and resolve internal displacement, underpinned by strategic and coordinated multi-stakeholder engagement. A mapping of planned activities and initiatives supporting the four identified priority areas at the local, national, regional and international levels has been undertaken, while a steering group has been created to oversee the implementation and monitor progress of the three-year Plan of Action.

14. From 23 to 25 April 2018, the Special Rapporteur met for the first time her counterparts at the Council of Europe in Strasbourg, France, with a view to strengthening collaboration with the Council. The visit was also an opportunity for the Special Rapporteur to exchange views with the Committee on Migration, Refugees and Displaced Persons of the Parliamentary Assembly of the Council, participate in a side event on internal displacement on the role of parliamentarians and deliver a statement at the Assembly during its debate on the humanitarian needs and rights of internally displaced persons.

15. On 26 and 27 April 2018, during a visit to Kiev, the Special Rapporteur met with the Ombudsperson of Ukraine and with United Nations agencies (UNHCR, the Office for the Coordination of Humanitarian Affairs, the United Nations Development Programme and the human rights monitoring mission in Ukraine) to follow up on specific issues regarding internal displacement in Ukraine.[7]

16. In May, the Special Rapporteur travelled to Washington, D.C., where she gave an overview on the Guiding Principles and their implementation at a symposium on internal displacement, and participated in a strategy meeting on internally displaced persons organized by the Institute for the Study of International Migration of Georgetown University and the Exodus Institute, held on 22 May. The Special Rapporteur also exchanged thoughts on her priorities as mandate-holder with international non-governmental organizations at a meeting organized by InterAction

[4] See https://inform-durablesolutions-idp.org/.

[5] https://inform-durablesolutions-idp.org/wp-content/uploads/2018/01/Durable-Solutions-Analysis-Guide-Apr2018.pdf.

[6] The Plan of Action was presented on 17 April 2018; see www.ohchr.org/Documents/Issues/IDPersons/GP20PlanOfAction.pdf.

[7] See report of the previous Special Rapporteur's visit to Ukraine in 2014 (A/HRC/29/34/Add.3).

and with counterparts from the United States Agency for International Development, and at a special lunch meeting with World Bank staff in Washington, D.C.

17. On 1 June, the Special Rapporteur gave a key address at a lunch meeting in New York for interested Member States on the Plan of Action, organized by the Permanent Mission of Austria to the United Nations in New York. On 6 June, the Special Rapporteur participated in a humanitarian coordinators' retreat, organized by the Office for the Coordination of Humanitarian Affairs in Lausanne to discuss how the Sustainable Development Goals represent an opportunity to reframe interventions aimed at addressing the vulnerabilities of internally displaced persons. She gave a presentation on how the Plan of Action can be leveraged to step up responses to internal displacement situations at the national level and the need for renewed engagements and innovative partnerships with local actors and civil society.

18. Pursuant to a Human Rights Council decision (A/HRC/DEC/35/101) to commemorate the twentieth anniversary of the Guiding Principles, the first-ever panel discussion on the achievements, best practices, challenges and recommendations with regard to applying the Guiding Principles was held on 26 June at the thirty-eighth session of the Human Rights Council. The panel was moderated by the Special Rapporteur, who also highlighted the importance of seizing the opportunity of the twentieth anniversary to galvanize efforts. Member States emphasized the importance of the Guiding Principles and national responsibility for internal displacement and offered support and to share lessons learned. The Plan of Action was mentioned multiple times by States taking the floor as a useful framework for increasing momentum on addressing internal displacement.

19. On June 27, during the thirty-eighth session of the Human Rights Council, the Special Rapporteur organized a well-attended and commended side event entitled "In their own words" to bring forward the voices of internally displaced persons themselves in the form of a panel consisting of internally displaced persons from Mexico, Nigeria, Japan and South Sudan. The side event was co-hosted by the permanent missions of Austria, Honduras and Uganda, with the support of OHCHR, UNHCR, Christian Aid and Greenpeace. On 29 June, during the UNHCR annual consultations with non-governmental organizations, the Special Rapporteur co-led a panel highlighting the need for a participation revolution, in line with her report to the General Assembly in 2017 on the topic, with internally displaced persons on the panel.

20. On 17 July, the Special Rapporteur provided remarks on the importance for countries with internally displaced persons of including internally displaced persons in their national road maps for the Sustainable Development Goals at a meeting organized by the International Peace Institute and the Permanent Mission of Norway to the United Nations in New York.

21. The Special Rapporteur also supported the organization of and participated as a keynote speaker at a workshop on 20 July, during the annual conference of the Refugee Law Initiative in London, entitled "Revitalizing IDP research". The Special Rapporteur shared her thoughts on how research can support the Plan of Action and discussed how best to frame policy-relevant research on internally displaced persons. During her visit to London, the Special Rapporteur also met with relevant counterparts in the Government of the United Kingdom of Great Britain and Northern Ireland and with non-governmental organizations, to promote and discuss the Plan of Action.

22. The Special Rapporteur also continued to co-chair the task team on law and policy of the Global Protection Cluster, aimed at supporting capacity-building and providing technical advice to States that are in the process of developing such normative instruments.

23. The Special Rapporteur took part in person and remotely in a number of international and regional conferences and events, including a workshop of the Advisory Committee of the Platform on Disaster Displacement in Bogis-Bossey, Switzerland in October 2017; a conference on the gender dimensions of internal displacement organized by the chairmanship of the Organization for Security and Cooperation in Europe in Vienna in June 2017; a summit of the Association of Southeast Asian Nations on Security Council resolution 1325 (2000), women and internally displaced persons in Manila in November 2017; a Global Protection Cluster thematic round table on internally displaced person participation in peace processes, held in Kiev in May 2018; and a round-table meeting on data of the Office for the Coordination of Humanitarian Affairs-Internal Displacement Monitoring Centre in The Hague, the Netherlands, in June 2018. The Special Rapporteur also continued to participate as a speaker and facilitator at events related to relevant policy research and studies, including a special internally displaced person research workshop of the Refugee Law Initiative, held in London in July 2018.

C. Country visits

24. Since her previous report to the General Assembly, the Special Rapporteur has undertaken official country visits to El Salvador, Libya and Niger. The findings and recommendations of her missions can be found in the addenda to the thematic report submitted to the Human Rights Council in June 2018 (A/HRC/38/39/Add.1, A/HRC/38/39/Add.2 and A/HRC/38/39/Add.3). In addition, the Special Rapporteur undertook working visits to Guatemala (19–22 August 2017), Mexico (23–25 August 2017), Honduras (25–28 October 2017) and Colombia (26 February–1 March 2018).

III. Internal displacement and transitional justice: ensuring the inclusion of internally displaced persons in the transitional justice process

A. Introduction

25. Transitional justice constitutes a response to the legacies of serious human rights and international humanitarian law violations, and more guidance is therefore needed regarding the role of Governments, United Nations agencies, non-governmental organizations and internally displaced persons themselves in achieving accountability for past injustices specifically related to internal displacement. These include the injustice of the detriment which internal displacement represents in its own right, as well as human rights violations that occur prior to, during or after the displacement, such as the destruction of homes, the killing of family members or discrimination. Seeking to strengthen the interlinkages between internal displacement and transitional justice and to address specific transitional justice responses to internal displacement is particularly pertinent at the present time since internal displacement caused by human rights violations, international humanitarian law violations and conflicts have significantly increased over the past two decades, with an estimated 40 million internally displaced persons globally at the end of 2017.[8] The increasingly protracted nature of internal displacement, with average displacement lasting 20 years,[9] has also

[8] See UNHCR, "Global trends: forced displacement in 2017" (2018). Available from www.unhcr.org/statistics/unhcrstats/5b27be547/unhcr-global-trends-2017.html.

[9] Office for the Coordination of Humanitarian Affairs, synthesis report of the humanitarian affairs segment of the 2017 session of the Economic and Social Council (June 2017). Available from www.un.org/ecosoc/sites/www.un.org.ecosoc/files/files/en/2017doc/2017-ecosoc-has-synthesis.pdf.

prompted greater attention to the need for peacebuilding initiatives and development support to durable solutions for internally displaced persons, in addition to effective humanitarian responses.

26. Transitional justice[10] refers to the approach of countries emerging from periods of conflict and repression to address systematic or widespread human rights violations so numerous and so serious that the normal justice system cannot, or will not, be able to provide an adequate response. It seeks recognition for victims and the promotion of possibilities for peace, justice and reconciliation. Transitional justice in the context of displacement is not a special form of justice, but justice adapted to countries or communities transforming themselves after a period of internal displacement.

27. Forced displacement is explicitly prohibited, per se, under international humanitarian law[11] in the form of the deportation or transfer of parts of a State's own civilian population into occupied territories, which qualifies as a war crime,[12] or as a crime against humanity, in certain circumstances.[13] Displacement can also be a consequence of other international humanitarian law violations. Certain violations often trigger displacement, such as mass killings, persecution, arbitrary arrests, torture or sexual violence. Other violations are deliberate attempts to prevent the possibility of certain groups returning home, through the destruction of housing and property.[14] In addition, displacement leaves its victims vulnerable to other violations, as they have lost the protection provided by their homes, communities and livelihoods.

28. There is therefore no doubt that transitional justice initiatives and responses are acutely relevant to internal displacement, given the wide range of human rights and international humanitarian law violations which prompt, surround and maintain such displacement.

29. Recognizing the important work undertaken to date in the field of transitional justice in the context of internal displacement,[15] and with the objective of

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[10] In the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616, para. 8), transitional justice is defined as the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.

[11] See Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), a.ts. 49 and 147; Additional Protocol I, art. 85 (4) (a); Additional Protocol II, art. 17; and International Committee of the Red Cross, customary international humanitarian law rule 129. See also Additional Protocol I, arts. 51 (7) and 78 (1), and Additional Protocol II, art. 4 (3) (e)).

[12] Fourth Geneva Convention, art. 49; Additional Protocol I, art. 85 (4) (a); Rome Statute of the International Criminal Court, art. 8 (2) (b) (viii); see also International Committee of the Red Cross (ICRC), customary rules of international humanitarian law, rule 130; Statute of the International Tribunal for the Former Yugoslavia, art. 2 (g).

[13] Rome Statute, art. 7 (1) (d).

[14] Under international humanitarian law, internally displaced persons have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist (Fourth Geneva Convention, art. 49, and customary international humanitarian law rule 132).

[15] Most notably, the collaborative research and case studies conducted by the International Center for Transitional Justice and the Brookings-LSE Project on Internal Displacement between 2010 and 2012 on the way in which transitional justice can respond to the injustices of displacement and serve as part of a comprehensive approach to resolving displacement. The project resulted in a final report containing 8 thematic studies and 14 case studies on country experiences.

operationalizing existing resources[16] and providing technical assistance for their implementation, the Special Rapporteur has sought to collaborate with relevant States, United Nations bodies and other international organizations, non-governmental organizations, researchers and academia and national human rights institutions to address this important area of concern and reconceive internally displaced persons as transitional justice actors.[17] She will continue to engage in dialogue with Governments undergoing transitional justice and peace processes to promote the inclusion of internally displaced persons and to learn about those Governments' experiences, challenges and practices.

30. It should be noted that, while transitional justice measures and approaches in disaster and post-disaster environments, and even development-related displacement[18] characterized by massive human rights violations, also deserves more attention in relation to internal displacement, the present report will focus on contexts of conflict.[19]

B. Normative frameworks and the relevance of transitional justice in the context of internal displacement

31. The Guiding Principles are recognized as the international framework for the promotion and protection of the human rights of internally displaced persons. In Africa, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), together with other normative frameworks, provides comprehensive guidance for States and relevant stakeholders in relation to internal displacement.

32. Common to these normative frameworks are the three "stages" of displacement and relevant obligations, namely (a) protection from forced and arbitrary internal displacement, (b) protection and promotion of human rights during internal displacement and (c) durable solutions for internally displaced persons. Much attention is given in times of crisis to protection during internal displacement. However, in the light of the increasing number of internally displaced persons worldwide, and the duration of displacement, it is critical to pay greater attention to preventing and resolving internal displacement.

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[16] A number of analytical studies have been undertaken by the Office of the United Nations High Commissioner for Human Rights, including on transitional justice aspects of peace agreements (A/HRC/12/18), the relationship between transitional justice and disarmament, demobilization and reintegration (A/HRC/18/23), gender-based and sexual violence in relation to transitional justice (A/HRC/27/21) and on the right to truth (E/CN.4/2006/91). OHCHR also led the development of the guidance notes of the Secretary-General on the United Nations approach to transitional justice (2010) and on reparations for conflict-related sexual violence (2014).

[17] Susan Harris Rimmer, "Reconceiving refugees and internally displaced persons as transitional justice actors", New issues in refugee research, research paper No. 187 (Geneva, 2010).

[18] There is growing interest in accountability for harms associated with disasters in various recent laws and policies, although these injustices have so far been overlooked. The Kampala Convention addresses natural disasters as a driver of forced displacement (art. 12 (3)) and standards such as the principles on housing and property restitution for refugees and displaced persons and the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons confirm that the resolution of issues of internal displacement as caused by natural disasters requires redress, in particular in the form of property restitution or compensation.

[19] See Megan Bradley, "More than Misfortune: Recognizing Natural Disasters as a Concern for Transitional Justice", International Journal of Transitional Justice, vol. 11, No. 3 (2017), pp. 400–420.

33. To achieve this, the four pillars of transitional justice are particularly relevant.[20] Outlined as the right to truth, the right to justice, the right to reparation and guarantees of non-recurrence,[21] they are referred to explicitly in the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons. Of the four, the right to truth, the right to justice and guarantees of non-recurrence act both as a deterrent to future forced displacement and as active steps towards strengthening legal protection against displacement, while the right to reparation and the right to justice can directly contribute to addressing the obstacles to durable solutions, for example through the restitution of housing, land and property, and reparation for underlying violations in addition to criminal prosecution of perpetrators.

34. Addressing housing, land and property disputes is an essential aspect of a response to the justice concerns of internally displaced persons and is also the most politically charged topic, requiring immense context sensitivity. Situations of ongoing and protracted internal displacement have in many countries resulted in complex and overlapping claims to land and property, and dealing with these can lead to renewed tensions, in particular when conflicts are ongoing or peace is fragile. Failing to address housing, land and property issues may however lead to further conflict and displacement, as these injustices are often linked to the effects of discrimination and marginalization. In order to settle such cases effectively, it is vital to address them promptly and transparently and with political strategies that ensure unbiased responses to claims by different groups. Special attention should be paid towards those groups which have previously been denied property rights owing to discrimination, in order to avoid reinforcing this marginalization, and steps should be taken to include them on an equal basis in restitution processes.[22] In the case of the Philippines, the Transitional Justice and Reconciliation Commission acknowledged that grievances about land dispossession are part of the historical injustices that led to the conflict and are therefore the subject of reparation and restitution.

35. Land issues following displacement can also have a considerable impact on gender equity and the socioeconomic well-being of internally displaced women. In countries emerging from large-scale displacement crises, women often lack formal title to the lands that they inhabited and have less power than men under customary or formal land ownership. Land restitution programmes that simply restore pre-displacement land ownership practices and overlook women's claims can be detrimental to the needs and concerns of internally displaced women.

36. New governments replacing repressive regimes may introduce and support different types of justice policies for mass atrocities, although internal displacement has rarely been acknowledged in these contexts. In some countries, the scale of the displacement is clear but opportunities for initiating transitional justice processes are more limited, owing to the conflict being ongoing.

37. Practical difficulties and challenges also arise from attempting to provide justice for the internal displacement of persons within a country, which sometimes has been caused by the authorities themselves. A country's political balance may be fragile,

[20] See E/CN.4/2005/102/Add.1, report of the independent expert appointed to update the Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity.

[21] See the 2015 reports of the former Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, on the pillar of non-recurrence (A/HRC/30/42, a general report on non-recurrence and A/70/438, a specific report on security sector reform and vetting).

[22] See Scott Leckie, "Housing, land and property rights in post-conflict societies: proposals for a new United Nations institutional and policy framework", Legal and Protection Policy Research Series (Geneva, UNHCR, 2005); and Khaled Hassine and Scott Leckie, *The United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons: A Commentary*, International Studies in Human Rights (Brill, 2016).

and a Government may be unwilling to pursue wide-ranging and costly initiatives or it may be unable to do so without putting its own stability at risk. Moreover, parties involved in the displacement with something to fear from justice may still control some or most of the levers of power and the distribution of power will therefore determine much of what can be done.

C. Transitional justice and prevention of internal displacement

38. One significant provision of the Guiding Principles is the recognition of the right not to be arbitrarily displaced, which creates a duty for States to ensure that such displacement is prevented. One way to reduce the risk of future displacement is by undertaking the transitional justice actions set out below, which can help strengthen the rule of law and accountability.

(a) **Criminal accountability and prosecutions** can be applied to internal displacement by targeting the perpetrators of violations that have led to arbitrary displacement or by targeting arbitrary displacement as a crime in itself.[23] The criminalization of arbitrary displacement in criminal codes would be a first step, although the lack of experience of judges and prosecutors within this field should be borne in mind. As a tool, it should be seen both as a component of the right to justice and a critical component in the prevention of future internal displacement. Displacement should in this sense be seen as itself a violation of international human rights law and international humanitarian law. International legal frameworks, such as the statutes of the International Criminal Tribunal for the former Yugoslavia, Extraordinary Chambers in the Courts of Cambodia (more commonly known as the Khmer Rouge tribunal, which, in case 002/1, examined the forced transfer of populations in the 1970s), the International Criminal Court, and the Geneva Conventions, allows for prosecution for forced displacements where they qualify as war crimes or crimes against humanity.[24,25] Some States, such as Colombia and the Philippines, have prosecuted the crime at the national level. The example of Colombia is important, as it has one of the most comprehensive framework programmes owing to the fact that displacement is considered to be a human rights violation and is defined as a crime under the Colombian Penal Code.[26] In 2011, the Victims and Land Restitution Act, which includes provisions on internally displaced persons, was launched. This significantly inflated the number of victims, with approximately 80 per cent of internally displaced persons having registered to receive reparations on account of being displaced.

(b) **Truth-seeking** (or fact-finding) initiatives by non-judicial actors that investigate, report and officially acknowledge periods or patterns of past human rights violations can be applied to internal displacement through truth commissions that increasingly recognize and investigate displacement as a serious human rights issue. The form and methodology can vary, but the processes should always be explicitly

[23] In order for forced displacement to be considered a crime, it has to be "arbitrary displacement", meaning that it has to have been ordered or committed without grounds permitted under international humanitarian law, such as involving the security of civilians or evacuation required for imperative military reasons.

[24] International Center for Transitional Justice Research Unit, "Transitional justice and displacement: challenges and recommendations", Project on Internal Displacement, International Center for Transitional Justice and Brookings-LSE (June 2012).

[25] The prohibition of displacing the civilian population in non-international armed conflicts is set forth in article 17 of Additional Protocol II to the Geneva Conventions and under article 8 (2) of the Rome Statute.

[26] See Inter-Agency Standing Committee, Framework on Durable Solutions for Internally Displaced Persons, p. 44, where the Colombian Penal Code is cited as good practice.

mandated to address both the causes and consequences of displacement, so that such experiences are adequately reflected in the recommendations of truth commissions. In Timor-Leste this helped ensure that displacement as a human rights violation was concertedly investigated and addressed in the report of the Truth, Reception and Reconciliation Commission. Such bodies should consider convening meetings specifically focused on internal displacement in order to deepen the understanding of the associated violations and to increase engagement with internally displaced persons. Truth commissions such as those in Liberia, Sierra Leone, Timor-Leste and Guatemala have specifically examined the role of displacement in conflict and occupation, as well as the suffering and stigma endured by those displaced.[27] The Truth, Justice and Reconciliation Commission of Kenya presented its report to the Kenyan Parliament in May 2013,[28] which provides a vital foundation for examining the past and, importantly, contains a variety of useful recommendations, including several on internal displacement.[29] The recent efforts of Kenya in the setting up of programmes building on the outcomes of the report should be supported.

(c) **Justice-sensitive security sector reform** seeks to reform laws and institutions, including the police, the military and the judiciary, responsible for past violations, by building institutional accountability, legitimacy, integrity and the empowerment of citizens. This can also be seen as constituting measures of non-repetition and can be used as a way to prevent future displacement by transforming the security and justice institutions and the governance systems that control and oversee them and by investing in national laws and policies on internal displacement. For example, in Bosnia and Herzegovina and in Kosovo,[30] reform processes seeking to remove perpetrators of human rights violations from the police force were harmonized with efforts to recruit from underrepresented minority groups and thereby concretely contributed to enabling returns of internally displaced persons.[31]

IV. Transitional justice in support of durable solutions

39. According to the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons, a durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement. It can be achieved either through sustainable reintegration at the place of origin (return); through sustainable local integration in areas where internally displaced persons take refuge (local integration); or through sustainable integration in another part of the country (settlement elsewhere in the country).

40. Transitional justice measures should be an inherent part of durable solutions for internally displaced persons. Conversely, any sustainable transitional justice initiative in countries affected by internal displacement will be meaningful only if, and to the extent to which it devotes sufficient inclusion, to the issue of internal displacement and includes internally displaced persons in the crafting of reparations programmes, in particular. The Inter-Agency Standing Committee Framework devotes considerable

[27] Ibid.

[28] Kenya Transitional Justice Network, "Summary: Truth, Justice and Reconciliation Commission Report". Available from www.acordinternational.org/silo/files/kenya-tjrc-summary-report-aug-2013.pdf.

[29] Ibid., p. 43.

[30] All references to Kosovo in the present document should be understood to be in compliance with Security Council resolution 1244 (1999) and without prejudice to the status of Kosovo.

[31] See International Center for Transitional Justice Research Unit, "Transitional Justice and Displacement: challenges and recommendations" (see footnote 24).

attention to the issue of reconciliation and recognizes the right to reparation, justice, truth and closure for past injustices through transitional justice or other appropriate measures and that internally displaced persons who have been victims of violations of international human rights or humanitarian law, including forced and arbitrary displacement, must have full and non-discriminatory access to effective remedies and access to justice.[32]

41. Both the 2004 and 2011 reports of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies stress the significance of comprehensive rule of law and transitional justice programmes that pay special attention to abuses committed against groups most affected by conflict, such as [...] displaced persons and refugees, and establish particular measures for their protection and redress in judicial and reconciliation processes and ensure the full inclusiveness of marginalized populations, including displaced persons.[33]

42. Particularly relevant to helping internally displaced persons reach durable solutions are reparations and restitution programmes, aimed at overcoming the material obstacles that internally displaced persons typically face as a result of their displacement, but also underlining the psychological impact that it can have. As stated by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Special Adviser to the Secretary-General on the Prevention of Genocide: first, effective redress is a right. Legally, lack of redress is a violation in its own right, a "denial of justice". Morally, redress recognizes the suffering of the victims and their families and contributes to restoring (to some extent) their dignity. Practically, redress is important from a preventive perspective, given the patterns of violations.[34] Together with truth-seeking and criminal accountability, as outlined above, security sector reform should also be seen as a confidence-building measure which can be a critical component to enabling internally displaced persons to achieve durable solutions.

- **Reparation programmes**[35] for human rights violations can take various forms, such as individual, collective, material and symbolic benefits for victims, such as compensations and apologies. An element of reparations is restitution, which seeks to restore victims to their previous situations. Returning housing, land and property to those who have been driven out are the types of reparations most directly linked to internal displacement. It is important to consult and utilize the United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons[36] in respect of any restitution programmes, as they clearly define how best to use housing and property restitution as a core remedy for displacement. In the context of internal displacement, programmes could provide benefits to victims of abuses that led to displacement, to displaced persons for harms that they suffered while displaced or for the experience of displacement itself. Benefits can include access to higher education, livelihood support and cash grants, although it may not always be appropriate or viable to provide financial compensation for the displacement itself. Monetary

[32] Ibid, p. 6.

[33] See S/2004/616, para. 25, and S/2011/634, para. 21.

[34] See A/HRC/37/65, para. 9.

[35] The right to reparations is recognized in General Assembly resolution 60/147 and the annex thereto, containing the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

[36] E/CN.4/Sub.2/2005/17. See also Parliamentary Assembly of the Council of Europe, resolution 1708 (2010) and recommendation 1901 (2010) on solving property issues of refugees and internally displaced persons, which endorses the United Nations Principles and sets out a series of Europe-specific restitution principles recommended to Council of Europe member States.

compensation can moreover be hard to sustain in countries that have experienced massive displacement. Symbolic reparations may instead be appropriate. Collective reparations intended for displaced communities as a whole may provide far-reaching benefits that go beyond the level of the individuals and the family unit. They may take the form of community rehabilitation programmes, such as the building of relevant infrastructure; collective educational programmes for those returning and their children; and health and psychological services for those who have suffered trauma from the displacement and consequent human rights violations.

E. Achieving a comprehensive transitional justice approach in responding to internal displacement

43. The Special Rapporteur points out that there are several important issues to bear in mind when approaching transitional justice in the context of internal displacement and identifying which methods will increase the chances of meeting the objectives of transitional justice. For international actors, this can include taking the necessary time to carry out comprehensive analyses of the political, social and legal conditions in the country in order to ensure context-driven approaches.

44. A gendered approach should also be applied, which requires exploring how women and men experience human rights violations differently leading up to, during and following displacement.[37,38] The pursuit of gendered justice includes prosecutions for gender-based violence; reparations delivery to diverse groups of women and their families; and institutional reform that serves human security needs and promotes women's access to justice. A gendered perspective is important to ensure that transitional justice mechanisms respond to the often marginalized concerns of internally displaced women. These include specific housing, land and property issues as, in many contexts, women and girls generally do not inherit property, as it passes through their husbands and fathers, and which in displacement situations is a major problem, as many men are killed or disappear. The socioeconomic repercussions of conflict and displacement on internally displaced women merit the attention of transitional justice processes. While displaced, many internally displaced persons are, moreover, exposed to a heightened risk of sexual and gender-based violence, and efforts to redress such violations should therefore be carefully incorporated into transitional justice programmes, while recognizing that men and boys may also be subjected to such abuse. In the same vein, it is crucial that any legislation or other transitional justice instrument or policy does not contravene or diminish available protection afforded to women, including through the criminalization of gender-based violence and discrimination. There has, to some extent, been a mainstreaming of women's experiences by truth commissions, with countries such as Liberia, Peru and Sierra Leone holding hearings with a specific focus on women, and this increasing recognition of both internally displaced persons and women in truth commissions should be supported.

45. A transitional justice approach, in responding to internal displacement, should also take into account the particular situation of those internally displaced persons who have a missing relative and thus experience incremental vulnerability. The anguish of not knowing what happened to their loved ones and the uncertainty of their

[37] See S/2011/634, para. 22: "Since 2004, women and girls have increasingly participated in transitional justice processes and have highlighted the grave consequences of forced displacement".

[38] Lucy Hovil, "The nexus between displacement and transitional justice: a gender-justice dimension", Project on Internal Displacement, International Center for Transitional Justice/ Brookings Project (June 2013).

ambiguous loss compound the suffering related to the trauma of displacement and the uncertainty about their own fate, especially when their displacement becomes protracted. Furthermore, they can face additional administrative burdens in relation to the search process, such as lacking the necessary official documentation, or the procedure may need to be initiated at the place of origin, to which the internally displaced persons may not be able to return without putting their safety at risk. Failure to address this issue may negatively impact on the internally displaced persons' ability to establish as normal a life as possible in the new location and move forward towards a durable solution. It may even lead to further tensions and repeated displacement.

46. Ensuring appropriate and contextualized approaches to the handling of claims by internally displaced persons will require engagement with informal or customary justice and security mechanisms, especially in countries where customary law and legal systems often provide the only available form of justice for a large group of the population and therefore play a pivotal role in resolving grievances. Afghanistan is a valid example of how the provision of legal aid by international actors can help returning internally displaced persons use customary institutions to effectively resolve property claims. While formal, high-level accountability efforts are essential to acknowledging violations, combating impunity and reforming national political cultures, it is important not to assume that high-level transitional justice initiatives will result in positive reconciliatory effects trickling down to the local level. Informal or customary processes therefore need to be adapted and applied to promote justice, reconciliation and the peaceful reintegration of internally displaced persons, while taking into account the limitations of such approaches. The traditional or religious beliefs and values that often underpin such approaches may not always be shared by the entirety of the affected population and can even conflict with human rights norms on issues such as gender equality.[39]

47. Transitional justice practitioners have in some places, for example in Burundi and Northern Uganda, engaged with local, or "traditional", justice measures where communities wished to use traditional rituals to foster reconciliation of opposing parties in conflict. In such cases, the role of transitional justice should be to ensure that a holistic approach is taken, whereby the ritual is included, but does not exclude the possibility of using other transitional justice measures.

48. In all contexts, in order to guarantee robust transitional justice initiatives, these need to involve the participation of internally displaced persons from the design to the implementation phase and should be rooted in the fundamental principle of non-derogation, or renunciation of existing rights, in particular non-discrimination guarantees protecting, inter alia, the rights of women, children, indigenous communities, ethnic and other minorities and persons with disabilities. Effective coordination of partnerships across sectors and areas of expertise is also crucial, together with proactive investment in national and local structures, laws, policies and capacity.

F. Participation of internally displaced persons in transitional justice processes

49. Appropriate consultation and participation is needed in order for transitional justice approaches to take the views, needs and objectives of internally displaced persons fully into account. Ensuring that internally displaced persons are included at the outset in the design and planning, to the extent possible, and in the implementation of transitional justice measures directed towards them must be at the core of

[39] Bradley, "More than misfortune" (see footnote 19).

transitional justice processes. The enjoyment of human rights by internally displaced persons and progress towards durable solutions rest upon the fundamental principle that internally displaced persons have the right to be involved in decisions affecting them.

50. That observation reflects the increasing recognition in the field of transitional justice of the need for inclusion and consultation of victims and the broader population.[40] The need, in designing responses to internal displacement, and in particular appropriate restitution, compensation or other forms of reparation for internally displaced persons, to consult the people most affected was also a recommendation of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, in his 2006 report on his mission to Côte d'Ivoire.[41] Moreover, as observed in the report of the former Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on national consultations for transitional justice, internally displaced persons should be consulted not only on the topic of addressing internal displacement, but about other aspects of their victimization or other violations which they have suffered in order to provide recognition of their equal status as rights holders.[42]

51. Internally displaced persons often face significant obstacles to participating in or accessing transitional justice measures. In some cases, information about transitional justice measures is not available to internally displaced persons, which can prevent them from making claims and may affect their decisions on whether to attempt to return, integrate locally or settle elsewhere. It is therefore important to ensure that transitional measures are enabled in places where the internally displaced persons themselves are located and that information for them is accessible in their languages.

52. Internally displaced or formerly internally displaced persons may also face significant challenges to participating in or accessing transitional justice programmes owing to lack of information, identity documentation requirements, difficulty in travelling and engaging due to economic constraints, marginalization and physical inaccessibility and the fear of reprisals.

53. Internally displaced populations also often face significant material and logistical challenges, such as a lack of human and financial resources and weak levels of coordination, which pose significant barriers to their mobilization. Colombia is a good example of a State which has made efforts to set up technical and administrative tools for the acknowledgement and characterization of the victims of armed conflict and displacement in order to better organize the State response. This was done though the establishment of the Victim Assistance and Comprehensive Reparation in 2011 by Law 1148, which furthermore created a collective reparations programme to ensure that affected groups would have access to comprehensive reparations.

54. It is very important to stress that the individual, as opposed to the collective nature of the measures envisaged under transitional justice measures will be contingent upon the specific context. Nonetheless, and while displacement is often perceived as a collective phenomenon and responses may rightly be framed collectively as far as they concern a group sharing common entitlements and identity features, this does not obviate the fact that internally displaced persons should be entitled to individual remedial measures in justice initiatives.

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[40] See, for example, the report of the former Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on victim participation (A/HRC/34/62).

[41] A/HRC/4/38/Add.2.

[42] A/71/567, para. 24.

55. Internally displaced persons, as critical stakeholders, provide the State with the opportunity to recognize them not only as nationals of the country with an equal stake in the body politic but also as the country's human resources for attaining long-term stability, reconciliation and development. Not doing so would further marginalize displaced populations, perpetuate instability and recurrence of conflicts and, moreover, "leave them behind" in State efforts to implement development goals such as the Sustainable Development Goals. Such recognition by the State can also help facilitate political reintegration for internally displaced persons whose relationship with the State will in some contexts have been inherently damaged.

56. National authorities must more fully engage in and support participatory processes from the outset and throughout. While non-governmental organizations and international actors should remain essential partners in the implementation thereof, facilitating the participation of internally displaced persons must be understood as an obligation of Governments. Improving participation and ensuring that it is meaningful and that outcomes are applied to the approaches is an effective means of improving the accountability of Governments towards internally displaced persons.

G. Coordination: transitional justice measures across sectors

57. Owing to the complexity and scope of large-scale internal displacement, closer links between the actions of a range of different actors, such as practitioners, policymakers and researchers in the fields of transitional justice, human rights, humanitarian, development and peacebuilding is needed in order to adequately address the challenges. Much is already known about effective transitional justice measures and about preventing, responding to and resolving internal displacement; however, this knowledge is sometimes scattered across fields, disciplines and communities of practice, with the inherent risk that it will not be deployed broadly, systematically and in an interdisciplinary manner. Bridging this possible divide between transitional justice actors and humanitarian, development, human rights and peacebuilding practitioners is of great importance. These actors often operate in the same contexts, and opportunities for stronger collaboration and cooperation should therefore be sought out.[43]

58. Peacebuilding and development actors should also have a voice in joint efforts engaged to meet the needs of internally displaced persons during the peacemaking process, and beyond. Opportunities in countries for achieving transitional justice during and following situations of internal displacement have arisen most frequently in and around peace processes aimed at ending internal armed conflicts. Peace agreements may represent opportunities to address both internal displacement and transitional justice at the same time.[44]

59. Although humanitarian organizations broadly support and promote efforts to fight impunity, there is sometimes a concern that public cooperation with criminal justice processes may compromise their neutrality, restrict access to vulnerable populations and put staff in the field at risk. Nevertheless, some agencies have engaged with criminal tribunals, sometimes by means of amicus curiae or in other ways, and a number of tools and protective measures can be used in order to minimize

[43] Bryce Campbell, "Addressing concerns about transitional justice in contexts of displacement: a humanitarian perspective", Project on Internal Displacement, International Center for Transitional Justice and Brookings-LSE (June 2013).

[44] See Kirsten McConnachie, "Dealing with displacement in Myanmar's peace process", Political Settlements Research Programme working paper (Global Justice Academy, University of Edinburgh, 2017), pp. 12–14. Available from www.politicalsettlements.org/files/2017/09/201709_WP_McConnachie_Myanmar-Working-Paper.pdf.

potential negative effects, including witness confidentiality and non-disclosure of information to the public.

IV. Conclusions and recommendations

A. Conclusions

60. **The experience of internal displacement often encompasses massive human rights violations and abuses prior to, during and in the aftermath of displacement, the consequences of which continue while persons remain displaced and even after they have achieved physical return, local integration or settlement elsewhere. To date, transitional justice has not adequately addressed the issue of displacement as squarely as it has other types of abuses.**

61. **The recognition that internally displaced persons have the right to participate fully in transitional justice mechanisms and peacebuilding processes must be reinforced, as must the responsibility of Governments to guarantee such participation in practice.**

62. **To effectively respond to internal displacement, transitional justice measures should ensure complementarity with humanitarian, development and peacebuilding interventions. Coordination and cooperation should, as far as possible, be increased across all sectors associated with transitional justice, while also acknowledging the challenges that exist. Incorporating gender perspectives in transitional justice measures is crucial, as men and women experience displacement differently and suffer different abuses throughout displacement.**

63. **Transitional justice measures are most likely to be effective in addressing internal displacement when they form part of a broader but coherent overall response to internal displacement. Programmes should therefore be designed and implemented in a holistic manner, so that different measures to address displacement-related injustices are mutually reinforcing. Internally displaced persons may be more inclined to see reparations as an appropriate and just measure if those reparations are combined with other measures that also address the injustices of the displacement itself, such as holding perpetrators accountable, publicly acknowledging the displacement and reforming institutions in order to prevent its recurrence. Strengthening legal frameworks against displacement can also be an important part of guaranteeing non-recurrence.**

64. **Transitional justice can play a significant role in facilitating the reintegration of internally displaced persons, which is a critical aspect of achieving durable solutions. Transitional justice measures, such as criminal justice and justice-sensitive security sector reform are able to address this by, for example, improving security in the local communities and helping prevent the recurrence of the abuses that led to displacement by holding perpetrators accountable and dismantling criminal structures. Reparations and restitution can also facilitate reintegration through economic recovery, access to land, re-establishing livelihoods and providing educational assistance. Truth-telling contributes specifically to social reintegration by forming mutual understanding between all groups who have been affected by the conflict and thereby reducing tensions. Transitional justice can also facilitate political reintegration for internally displaced persons whose relationship with the State will in some contexts have been inherently damaged.**

B. Recommendations

65. **States and the international community should ensure that the full potential of transitional justice to contribute to preventing and resolving internal displacement is maximized. Responses to internal displacement in post-conflict contexts should more consistently incorporate transitional justice mechanisms, and transitional justice measures should fully include internally displaced persons in their processes. It is important to balance early action on transitional justice with long-term approaches in order to maximize impact on resolving displacement.**

66. **States and the international community must deliver greater commitment to supporting the design and implementation of comprehensive frameworks of transitional justice to address the root causes of violence and conflict which leads to internal displacement. These frameworks must be developed through a comprehensive process of consultation at the national level and must be tailored to the specifics of each context.**

67. **In the present report, the Special Rapporteur hopes to revitalize and enhance a needed conversation between a range of actors, including Governments, United Nations agencies, international organizations, non-governmental organizations and internally displaced persons, with an ultimate goal of moving from discussion to improved practice.**

68. **The Special Rapporteur recommends that States and transitional justice actors:**

Approach

(a) **Develop national strategies in consultation with displaced communities for identifying and responding to the concerns of internally displaced persons through context-sensitive, appropriate, feasible and coherent transitional justice measures. In order to be effective, strategies must adhere to the guidance and obligations of existing international frameworks but also be based on detailed assessments of regional, national and local contexts;**

(b) **Carefully monitor and evaluate transitional justice processes with the involvement of internally displaced persons and assess the impacts of initiatives on an ongoing basis so that redress and reconciliation efforts can be recalibrated if necessary;**

(c) **Ensure that expectations regarding transitional justice programmes designed for internally displaced persons are modest and clearly explained and avoid the idealization of return as a sign of reconciliation;**

(d) **Embrace a long-term approach to supporting efforts for justice and durable solutions, recognizing that even small successes in resolving internal displacement, redressing past injustices and promoting reconciliation may bring new claims and conflicts to the fore;**

(e) **Consistently take into account context-sensitive factors when designing and implementing transitional justice measures responding to the injustices of internal displacement, such as any ongoing conflicts, land and property issues and informal justice and security measures. In particular, restitution measures should take into account the sensitivities in respect of housing, land and property issues in post-conflict settings;**

(f) Recognize both the positive role and the potential limitations of local or customary approaches to advancing transitional justice and reconciliation for internally displaced persons;

(g) Avoid portraying transitional justice as restoring the status quo ante, as this is often impossible and may be counter-productive when the status quo ante was itself highly unjust or the cause of the displacement;

(h) Legal frameworks should be based on legislative recognition of known patterns of victimization that occurred in connection with the internal displacement as a means of justifying such frameworks and ensuring that they facilitate efficient procedural approaches, such as reduced burdens of evidence;

Implementation

(i) Ensure that demographic data and profiling analysis are used, in line with applicable data protection laws, in order to document the scope and patterns of internal displacement and support specific units and investigation methodologies set up at the national level for crimes of internal displacement;

(j) Establish independent investigation methodologies and prosecutorial strategies at the national level for the crime of arbitrary and forced internal displacement;

(k) Take account in transitional justice programmes of the particular needs of internally displaced persons who are also family members of missing persons by ensuring that their right to know the fate and whereabouts of their missing relatives is properly addressed;

(l) Support compensation approaches that ensure beneficial impacts by promoting equitable development and (re)integration, and which take into account the specific needs of internally displaced women, giving them greater control over the way in which reparation programmes and benefits are assigned, in order to advance durable solutions. Provide reparations in the form of education and training programmes;

(m) Support capacity-building of transitional justice actors by addressing the range of injustices experienced by internally displaced persons;

(n) For criminal prosecutions, specific investigation methodologies should be established relating to displacement, and demographic evidence and testimony should be used, where appropriate, to ensure an accurate portrayal of the population group affected, its experiences and responsibility for its displacement;

(o) Consider the possibility of collective reparations, where appropriate, in accordance with the expressed needs of internally displaced communities when they return or at their place of local integration or settlement elsewhere;

Participation

(p) Incorporate explicitly into the mandates of truth commissions the investigation of internal displacement and engagement with internally displaced persons;

(q) Ensure that in-depth needs assessments to set priorities are conducted as part of transitional justice processes so that mechanisms are designed to address issues faced by internally displaced persons in accordance with the priorities of the latter;

(r) Systematically involve internally displaced persons by: consulting with them on the design of transitional justice and reconciliation initiatives; seeking their input as witnesses in trials and truth commissions; appointing internally displaced persons to positions of responsibility in transitional justice bodies and projects; and employing information and communication technologies to support such involvement in dispersed geographic locations, while recognizing that the function of such tools is limited by lack of access to advanced technologies and the need for opportunities for in-person participation;

(s) Ensure the active participation of internally displaced persons in peace negotiations and the inclusion of detailed provisions on the rights of internally displaced persons in peace treaties, setting the stage for transitional justice mechanisms;

(t) Coordinate outreach programmes that attempt to reach all internally displaced persons and persons affected by displacement, via the usage of multiple languages, media and technology to maximize the dissemination of information and engagement with host communities;

(u) Allow for the consideration of internally displaced persons for formal roles within truth commissions, such as investigators, community focal points or commissioners, on the basis of their existing capacities, which may need to be reinforced through capacity-building. Provide effective protection measures to enable secure participation by internally displaced persons in such processes;

(v) Ensure equitable opportunities for internally displaced women to participate in justice processes at all stages by actively consulting displaced women's groups in the design and implementation of such processes; putting in place mechanisms that ensure their physical security; and supporting women to occupy leadership roles in justice institutions;

(w) Acknowledge that it may not always be possible to provide direct, material benefits such as financial compensation to very large numbers of internally displaced persons, and ensure that expectations are carefully handled through clear communications with internally displaced persons about the particular benefits being offered, their limitation, eligibility, duration and the distribution process;

Sustainability

(x) Ensure that any transitional justice measures are implemented in parallel with a broader set of structural reforms that address the root causes of internal displacement;

(y) Harmonize efforts involving individuals and communities affected by internal displacement so that they support broader transitional justice, development, humanitarian, peacebuilding and reconciliation strategies, as well as social processes such as urbanization and the evolution of more equitable gender roles;

(z) Support transformation of structures and institutions that facilitated gender injustices, such as entrenched approaches to property ownership, while ensuring that efforts to address women's claims to land ownership are context-sensitive;

(aa) Ensure that justice-sensitive security sector reform efforts form part of a broader set of structural reforms that address the root causes of

displacement, such as land reform, broader justice and security sector reform and institutional capacity-building;

(bb) Take the lead on further sustained dialogue, discussions, research, policy and practical initiatives on the interlinkages between transitional justice and internal displacement, with a view to maximizing the potential that such processes can have on individuals and communities affected by internal displacement.

69. **The Special Rapporteur recommends that international humanitarian and development partners and the international donor community:**

(a) Strengthen organizational capacity to engage with, and more systematically support, transitional justice processes. Displacement-focused organizations and key actors involved in protecting and assisting internally displaced persons should maximize effective engagement on transitional justice issues by appointing focal points for transitional justice, secondments and specialized training opportunities;

(b) Support internally displaced persons in effectively accessing valid informal mechanisms while ensuring that such customary processes are attuned to human rights principles;

(c) Ensure that the meaningful engagement and participation of internally displaced persons are at the centre of transitional justice measures by making materials available in different languages, holding events both in informal settlements and cities and sending investigators and/or officials to meet internally displaced groups; and use media and technology to disseminate information to dispersed groups.